



9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG-2011-1029]

RIN 1625-AA00; AA87

Safety & Security Zones; OPSAIL 2012 Connecticut, Thames River, New London, CT

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

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SUMMARY: The Coast Guard proposes to establish temporary safety and security zones on the Thames River near New London, CT for OPSAIL 2012 Connecticut (CT) activities. This action is necessary to provide for the safety of life and protection of naval vessels on navigable waters during OPSAIL 2012 CT. This action would restrict vessel from entering into, transiting through, mooring or anchoring within the zones unless authorized by the Captain of the Port (COTP) Sector Long Island Sound (SLIS).

DATES: Comments and related material must be received by the Coast Guard on or before [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

Requests for public meetings must be received by the

Coast Guard on or before [INSERT DATE 21 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: You may submit comments identified by docket number USCG-2011-1029 using any one of the following methods:

(1) Federal eRulemaking Portal:

<http://www.regulations.gov>.

(2) Fax: 202-493-2251.

(3) Mail: Docket Management Facility (M-30), U.S.

Department of Transportation, West Building Ground Floor,  
Room W12-140, 1200 New Jersey Avenue SE, Washington, DC  
20590-0001.

(4) Hand delivery: Same as mail address above,  
between 9 a.m. and 5 p.m., Monday through Friday, except  
Federal holidays. The telephone number is 202-366-9329.

To avoid duplication, please use only one of these  
four methods. See the "Public Participation and Request  
for Comments" portion of the SUPPLEMENTARY INFORMATION  
section below for instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: If you have questions on  
this proposed rule, call or e-mail Petty Officer Joseph  
Graun, Prevention Department, U. S. Coast Guard Sector Long  
Island Sound, (203) 468-4544, [Joseph.L.Graun@uscg.mil](mailto:Joseph.L.Graun@uscg.mil). If  
you have questions on viewing or submitting material to the

docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202-366-9826.

SUPPLEMENTARY INFORMATION:

Public Participation and Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related materials. All comments received will be posted without change to <http://www.regulations.gov> and will include any personal information you have provided.

Submitting comments

If you submit a comment, please include the docket number for this rulemaking USCG-2011-1029, indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online (via <http://www.regulations.gov>) or by fax, mail, or hand delivery, but please use only one of these means. If you submit a comment online via [www.regulations.gov](http://www.regulations.gov), it will be considered received by the Coast Guard when you successfully transmit the comment. If you fax, hand deliver, or mail your comment, it will be considered as having been received by the Coast Guard when it is received at the Docket Management Facility. We recommend that you include your name and a mailing address, an e-mail address,

or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

To submit your comment online, go to <http://www.regulations.gov>, click on the "submit a comment" box, which will then become highlighted in blue. In the "Document Type" drop down menu select "Proposed Rule" and insert "USCG-2011-1029" in the "Keyword" box. Click "Search" then click on the balloon shape in the "Actions" column. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period and may change the rule based on your comments.

#### Viewing comments and documents

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, click on the "read comments" box, which will then become highlighted in blue. In the "Keyword" box insert "USCG-2011-1029" and click "Search."

Click the "Open Docket Folder" in the "Actions" column.

You may also visit the Docket Management Facility in Room W12-140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. We have an agreement with the Department of Transportation to use the Docket Management Facility.

#### Privacy Act

Anyone can search the electronic form of comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review a Privacy Act notice regarding our public dockets in the January 17, 2008, issue of the Federal Register (73 FR 3316).

#### Public meeting

We do not now plan to hold a public meeting. But you may submit a request for one on or before [INSERT DATE 21 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER] using one of the four methods specified under ADDRESSES. Please explain why you believe a public meeting would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced

by a later notice in the Federal Register.

#### Basis and Purpose

The legal basis for the temporary rule is 33 U.S.C. 1231, 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05-1, 6.04-1, 6.04-6, 160.5; Pub. L. 107-295, 116 Stat. 2064; and Department of Homeland Security Delegation No. 0170.1, which collectively authorize the Coast Guard to define safety and security zones.

OPSAIL 2012 CT is a multi-day marine event involving a gathering of naval vessels, and a fireworks display. This proposed rule is necessary to; 1) protect participating naval vessels from security threats. 2) Protect waterway users from the dangers inherent to fireworks displays.

#### Discussion of Proposed Rule

From Tuesday, July 3, 2012 through Monday, July 9, 2012, Operation Sail, Inc. is sponsoring a naval vessel viewing and a fireworks display as part of the OPSAIL 2012 CT. Participating U.S. and foreign naval vessel will begin arriving in the New London, CT area on July 3, 2012. Upon arrival each vessel will transit up the Thames River to Admiral Shear State Pier where they will stay moored for public viewing until July 9, 2012. On the evening of July 7, 2012 the event organizer will put on an on-water fireworks display for public viewing. The fireworks will

be launched from two barges anchored in the Thames River adjacent to New London City Pier.

The gathering of naval vessels is a significant event and creates a potential target for sabotage, subversive acts, or other terrorist activity. For these reasons COTP SLIS has determined it necessary to establish security zones for all naval vessels visiting during OPSAIL 2012 CT. Current regulations established in 33 CFR 165 Subpart G, provide a naval protective zone of 100 yards around each U.S. naval vessel greater than 100 feet in length. This rule purposes to create a security zone in accordance with 33 CFR 165 Subpart G of 100 yards around each U.S. naval vessel 100 feet or less in length and all foreign naval vessels while underway, anchored, or moored . while on the navigable waters of the Thames River, CT between the Thames River Railroad Bridge in the Port of New London and New London Ledge light located at the mouth of the Thames River. This rule also proposes to create a security zone around Admiral Shear State Pier including all navigable waters of the Thames River, CT within 100 yards of Admiral Shear State Pier. The specific geographic locations of the regulated areas and specific requirements of this rule are contained in the regulatory text.

Based on the inherent hazards associated with fireworks, the COTP SLIS has determined that fireworks launches proximate to watercraft pose significant risk to public safety and property. The combination of increased numbers of recreation vessels, congested waterways, darkness punctuated by bright flashes of light, and debris falling into the water has the potential to result in serious injuries or fatalities. This proposed rule would establish a temporary safety zone to restrict vessel movement around the location of the launch platforms to reduce the risk associated with the fireworks display. The launch platforms composed of two barges will be located on the Thames River between New London City Pier and Fort Trumbull. The geographic locations of the regulated area and specific requirements of this rule are contained in the regulatory text.

The Coast Guard anticipates this proposed rule would be effective and enforced from 7:30 a.m. on July 3, 2012 until 5 p.m. on July 9, 2012. Notice of the safety and security zones, would be provided prior to the event through the Local Notice to Mariners and Broadcast Notice to Mariners. In addition, the sponsoring organization, Operation Sail, Inc., is planning to publish information of



the event in local newspapers, pamphlets, internet sites, television and radio broadcasts.

Persons and vessels would be prohibited from entering, transiting through, anchoring in, or remaining within the safety and security zones unless authorized by the COTP SLIS or designated representative. Persons and vessels would be able to request authorization to enter, transit through, anchor in, or remain within the regulated areas by contacting the COTP SLIS by telephone at (203) 468-4401, or designated representative via VHF radio on channel 16. If authorization to enter, transit through, anchor in, or remain within any of the regulated areas is granted by the COTP SLIS or designated representative, all persons and vessels receiving such authorization would be required to comply with the instructions of the COTP SLIS or designated representative.

#### Regulatory Analyses

We developed this proposed rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on 13 of these statutes or executive orders.

#### Executive Order 12866 and Executive Order 13563

Executive Orders 13563, Improving Regulation and Regulatory Review, and 12866, Regulatory Planning and

Review, direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This rule has not been designated a significant regulatory action under section 3(f) of Executive Order 12866. Accordingly, the Office of Management and Budget has not reviewed it under that Order.

The Coast Guard has determined this proposed rule is not a significant regulatory action for the following reasons: 1) The regulated areas will be of limited duration and cover only a small portion of the navigable waterways; 2) vessels may transit the navigable waterways outside of the safety and security zones and 3) Vessels requiring entry into the safety and security zones may be authorized to do so by the COTP SLIS or designated representative.

Advanced public notifications will also be made to the local maritime community through the Local Notice to Mariners as well as Broadcast Notice to Mariners. In addition, the sponsoring organization, OPSAIL, Inc., is

planning to publish information of the event in local newspapers, pamphlets, internet sites, television and radio broadcasts.

#### Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601-612), we have considered whether this proposed rule would have a significant economic impact on a substantial number of small entities. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies fewer than 5 U.S.C. 605(b) that this proposed rules would not have a significant economic impact on a substantial number of small entities. This proposed rule would affect the following entities, some of which might be small entities: the owners or operators of vessels intending to transit the Thames River from July 3-9, 2012. The regulated areas will be of limited duration and cover only a small portion of the navigable waterways. Vessels would be able transit the navigable waterways outside of the safety and security zones. Vessels requiring entry into the safety and security zones

may be authorized to do so by the COTP or designated representative. Before the effective period, the Coast Guard will make notifications to the public through the Local Notice to Mariners and Broadcast Notice to Mariners. In addition, the sponsoring organization, OPSAIL, Inc., is planning to publish information of the event in local newspapers, pamphlets, internet sites, television and radio broadcasts.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this proposed rule would have a significant economic impact on it, please submit a comment (see ADDRESSES) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

#### Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we want to assist small entities in understanding this proposed rule so that they can better evaluate its effects on them and participate in the rulemaking. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact

the person listed under FOR FURTHER INFORMATION CONTACT.

The Coast Guard will not retaliate against small entities that question or complain about this proposed rule or any policy or action of the Coast Guard.

#### Collection of Information

This proposed rule would call for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520.).

#### Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this proposed rule under that Order and have determined that it does not have implications for federalism.

#### Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the

expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this proposed rule would not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

#### Taking of Private Property

This proposed rule would not cause a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

#### Civil Justice Reform

This proposed rule meets applicable standards in sections 3(a) and 3(b) (2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

#### Protection of Children

We have analyzed this proposed rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an

economically significant rule and would not create an environmental risk to health or risk to safety that might disproportionately affect children.

#### Indian Tribal Governments

This proposed rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

#### Energy Effects

We have analyzed this proposed rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a "significant energy action" under that order because it is not a "significant regulatory action" under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs has not

designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

#### Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This proposed rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

#### Environment

We have analyzed this proposed rule under Department of Homeland Security Management Directive 023-01 and



Commandant Instruction M16475.1D, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321-4370f), and have made a preliminary determination that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment.

A preliminary environmental analysis checklist supporting this determination is available in the docket where indicated under ADDRESSES. It appears that this proposed rule will qualify for Coast Guard categorical exclusion (34) (g), as described in figure 2-1 of the Instruction. This proposed rule establishes temporary safety and security zones. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

#### List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, and Waterways

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR Part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS  
AREAS

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 46 U.S.C. Chapters 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05-1, 6.04-1, 6.04-6, 160.5; Pub. L. 107-295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

2. Add § 165.T01-1029 to read as follows:

§ 165.T01-1029 Safety & Security Zones; OPSAIL 2012  
Connecticut, Thames River, New London, CT.

(a) The following areas are established as security zones:

(1) 100 yards around all U.S. naval vessels measuring 100 feet or less in length while in the navigable waters of the Thames River, CT between 41°21'46" N, 072°05'17" W (Thames River Railroad Bridge in the Port of New London) and 41°18'21.14'' 72°04'38.78'' (New London Ledge light), whether the U.S. naval vessel is underway, anchored, or moored.

(2) 100 yards around all foreign naval vessels in the navigable waters of the Thames River, CT between

41°21'46" N, 072°05'17" W (Thames River Railroad Bridge in the Port of New London) and 41°18'21.14'' 72°04'38.78'' (New London Ledge light), whether the foreign naval vessel is underway, anchored, or moored.

(3) All navigable waters surrounding Admiral Shear State Pier shoreward of a boundary line created by connecting the following coordinates. Beginning at position 41°21'37" N, 072°05'26" W then to position 41°21'25" N, 072°05'16" W then to position 41°21'21" N, 072°05'24" W then ending at position 41°21'23" N, 072°05'26" W (NAD 83).

(b) The following area is established as a safety zone: All navigable waters within a 1000 foot radius of each fireworks barge located in approximate positions 41°20'57.1" N, 072°05'22.1" W and 41°21'03.3" N, 072°05'24.5" W (NAD 83).

(c) Regulations. (1) The general regulations contained in 33 CFR 165.23 and 165.33 apply.

(2) In accordance with the general regulations in §§ 165.23 and 165.33 of this part, entry into or movement within these zones is prohibited unless authorized by the Captain of the Port (COTP) Sector Long Island Sound (SLIS) or designated representative.

(3) All persons and vessels shall comply with the

instructions of the COTP SLIS or designated representative. These designated representatives are comprised of commissioned, warrant, and petty officers of the Coast Guard. Upon being hailed by a U.S. Coast Guard vessel by siren, radio, flashing lights or other means the operator of a vessel shall proceed as directed.

(4) Persons and vessels desiring to enter, transit through, anchor in, or remain within the safety or security zones must contact the COTP SLIS by telephone at (203)-468-4401, or designated representative via VHF radio on channel 16, to request authorization. If authorization to enter, transit through, anchor in, or remain within the safety or security zones is granted by the COTP SLIS or designated representative, all persons and vessels receiving such authorization must comply with the instructions of the COTP SLIS or designated representative.

(5) The Coast Guard will provide notice of the safety and security zones, prior to the event through the Local Notice to Mariners and Broadcast Notice to Mariners. Notice will also be provided by on-scene designated

representatives.

(d) Enforcement period. This section will be enforced during the following times.

(1) Naval Vessel Security Zones will be enforced from 7:30 a.m. on July 3, 2012 until 5 p.m. on July 9, 2012.

(2) Admiral Shear State Pier Security Zone will be enforced from 7:30 a.m. on July 3, 2012 until 5 p.m. on July 9, 2012.

(3) Fireworks Safety Zone will be enforced from 8:30 p.m. until 10 p.m. on July 7, 2012. If the fireworks display is postponed, it will be enforced from 8:30 p.m. until 10 p.m. on July 8, 2012.

Dated: March 6, 2012

J. M. Vojvodich  
Captain, U. S. Coast Guard  
Captain of the Port Sector Long Island Sound

[FR Doc. 2012-6489 Filed 03/19/2012 at 8:45 am; Publication Date: 03/20/2012]